POLITICAL AND MUNICIPAL LEGISLATION IN 1896.

In the ANNALS for May, 1896,* appeared an account of the more important laws relating to state and local government enacted by the various state legislatures in 1895. The present paper presents a similar review for 1896. Reference to the previous paper may be of convenience in interpreting the significance of the enactments of 1896, especially since in it mention was made of certain prominent tendencies of legislation in preceding years. The present report covers the legislative sessions of the six states where they are held annually—Massachusetts, New York, New Jersey, Rhode Island, South Carolina and Georgia (session of October to December, 1895); and of the eight states whose biennial sessions occur in even years—Maryland, Virginia, Ohio, Kentucky, Louisiana, Mississippi, Iowa and Utah. It was to be expected that fewer important acts should be adopted last year than in 1895, when thirty-nine legislative sessions took place. We have also to note, however, the large number of unusually important constitutional amendments which were voted upon in 1896, as well as the new constitutions of Utah and South Carolina which went into force last year.

The states whose legislation in 1896 was most noteworthy and progressive, especially if judged from the point of view of their own citizens, were probably New Jersey, Louisiana, Ohio and Utah. The Legislature of New Jersey had long been conspicuously corrupt and her statute-books teemed with laws not only perverse but confused and self-contradictory. Last year a step toward better things was signalized by the fact that the bulk of legislation as compared

* Vol. vii, p. 411.

with preceding years was reduced one half and that common-sense improvements in the manner of phrasing and printing the laws were introduced. A complete revision by a special commission of the notoriously loose corporation laws, and simplifications of the municipal system, were the most important measures of the year. In Louisiana a municipal reform movement in New Orleans not merely captured the city government, but exercised such an influence in the legislature as to secure a vastly improved charter for the metropolis, as well as a secret ballot law and other progressive acts. The Ohio corrupt practices and land registration laws mark forward steps in legislation from the standpoint of the nation as a whole. Utah, on coming into the Union, adopted (at the November, 1895, election) a constitution which in its wide scope and its minuteness, as well as in its radical spirit, fairly outdoes any of the other elaborate constitutions recently adopted in western states. The fact that long articles are devoted to such subjects as labor, corporations, and trusts is typical of the general character of the document. The legislature has passed several interesting laws to carry out the injunctions laid upon it. The new South Carolina constitution, though not so radical, is scarcely less replete with provisions not properly coming under the scope of constitutional law. In Kentucky, the protracted and bitter senatorial contest limited the amount of legislation within exceedingly narrow bounds.

*Constitutional Amendments.** The general result of the popular vote on the constitutional amendments submitted last year is worthy of notice. Frequent comment has been made upon the conservatism shown by the people in their action. As a matter of fact, out of fifty-seven separate amendments voted upon only twenty-four† met with approval, although the number rejected is swollen by the

*The text of most of the constitutional amendments referred to will be found in the session laws of 1895, though some are in the laws of 1894 and 1896. Many of the citations were given in the writer's paper in the ANNALS of May, 1896.

†See foot note on page 61 concerning the Florida amendments,

fact that two states alone, Louisiana and Nebraska, defeated twenty-one. The striking instance of these states calls attention to an apparent characteristic manifested in these constitutional elections, which has received less notice, but which is perhaps more significant than popular conservatism, namely, the great lack of careful discrimination concerning the questions at issue. Several amendments presented at an election, although separately voted upon (as is almost universally required), are exceedingly likely to stand or fall together. Moreover, if we consider the action of any state on amendments for several successive years, there appears a sort of habit in the popular attitude toward them. In some states, perhaps because of general distrust of the legislature, the tradition is to vote in the negative on nearly all questions submitted; in other states the opposite tradition prevails. In 1896 Louisiana rejected eleven amendments,* Nebraska ten, Missouri four, New York, Massachusetts, Illinois, Wisconsin, Colorado and Montana one each; Minnesota adopted six, Florida five,† South Dakota four,‡ Idaho three, Georgia two, and Washington one. Only in California do we find the people adopting one amendment and rejecting two, and in Texas adopting one and rejecting one. The several amendments thus meeting a like fate often vary greatly in character and intrinsic desirability. The interest centres about one or possibly two more important propositions and the others receive little independent consideration. This was beyond question the case in Louisiana

*The Louisiana amendments covered a very large number of sections and made marked changes, but they were grouped according to general subjects into eleven propositions. The one relating to legislative powers especially contained several quite diverse provisions.

†Repeated inquiries of state officers, and of a newspaper office in Florida, have failed to secure information as to the fate of these amendments. I have judged that they were probably adopted, from the fact that in previous years amendments have been usually accepted by the people.

‡Some question was raised as to the legality of the vote in South Dakota, as a technical error in the form of the ballot had been made; but after the matter had been discussed some time, the secretary of state wrote (December 20) that the amendments were adopted, and made no qualifying comment.

last year, where the *crux* was the proposed requirement of an alternative property or educational qualification for the suffrage. The numerous amendments, which had been carefully prepared by a special commission, embraced such varying matters as the establishment of pensions for Confederate veterans, the authorization of borrowing by municipalities for parks, streets and bridges, the reorganization of certain courts, and many other subjects. The pressure for constitutional changes is still strong and the legislature, which met after the defeat of the amendments, has submitted to vote in 1898 the question of holding a convention. In Nebraska, amendments allowing the use of ballot machines and providing that five-sixths of the jury may render a verdict in civil cases, both of which would probably have succeeded if presented alone, fell along with several propositions which met disapproval doubtless because tending to increase the expense of government and the power of the legislature. The six amendments adopted in Minnesota and the four in South Dakota were perhaps all of a character more apt to appeal to the people, although in the latter state the repeal of the prohibition article largely distracted attention from the other questions. The several amendments in Oregon which had been proposed by the legislature of 1893 and approved by that of 1895, were none of them submitted to the people, the legislature having neglected, for some reason, to pass the necessary special act providing for an election to vote upon them. Delaware is now holding a constitutional convention.

Suffrage. Radical and conservative tendencies both found most noteworthy expression in the constitutional legislation of 1896. Not only did Utah, by her original constitution, follow the example of her neighbors, Colorado and Wyoming, in granting the ballot to women, but at the November election yet another adjoining state, Idaho, took the same course by a vote of about two to one. California, however, with all her radicalism, rejected woman suffrage; it is

claimed that the liquor interests considerably influenced the election. The current sessions of the legislature in Nevada and Oregon are to express their approval or disapproval of this same measure, as submitted to them two years ago. In view of the general inclination of the western states toward absolute democracy, the fact is noteworthy that Washington has followed the path marked out by California in 1894, in requiring ability to write one's name and to read the constitution as a qualification for voting. Minnesota has taken a conservative step in another direction and, by a vote in which the large foreign population is said to have generally favored the affirmative, has made citizenship a requirement for suffrage. Formerly aliens who had lived one year in the United States could vote on declaring their intention to become naturalized. Utah also adopted the citizenship qualification. A much shorter step was taken in Texas where the people approved an amendment requiring the declaration of intention to become a citizen, which could previously be made on the very eve of voting, to be filed six months before election. In Montana, however, where citizenship is already required, the proposition to require naturalization three months before election was rejected.

In the South the negro question is of course at the bottom of the movement for restricted suffrage. The South Carolina constitutional convention which met in the last months of 1895 adopted a measure which disfranchised a very considerable proportion of the colored and "poor white" population. Not only is the requirement as to voting residence high—two years in the state, one in the county, four months in the election district; not only is the payment of a poll-tax six months before election necessary; but after January 1, 1898, no one can become an elector unless he can both read and write a section of the constitution, or else has paid taxes on $300 worth of property. Provision is made, however, for granting the franchise permanently (subject to the

poll-tax requirement) to such as prior to 1898 register and show themselves able either to read a section of the constitution or "to understand and explain it when read;" but evidently the interpretation of election officers as to what constitutes understanding and explaining is apt to be a very adjustable one. Following the precedent set by the Mississippi constitutional convention of 1890, this South Carolina constitution was promulgated without popular vote, a course that could be legally pursued under the constitution of 1868. Had it been voted upon, the same lot would doubtless have awaited the constitution as in May, 1896, befell the amendment in Louisiana which proposed almost precisely the same restrictions on the ballot.

Elections and Corrupt Practices. Two more states adopted the Australian ballot system in 1896, Louisiana and Utah. Both require the arrangement of candidates' names to be alphabetic under each office, a method tending to disfranchise illiterates in such a state as Louisiana. These same states likewise for the first time provide for registration, which is required biennially of all electors. In Utah, a house to house canvass is to be made, doubtless for the convenience of women voters. Maryland and New York have revised their election laws, but without important innovations. The vote of California on the constitutional amendment allowing the use of ballot machines was affirmative, but, probably for the reasons already suggested, the same proposition was rejected in Nebraska. Massachusetts extends her law so that the McTammany machine may be used by cities and towns for state as well as local elections; and even goes a step farther than New York had done by providing that the state shall pay for the machines when local authorities adopt them, although for 1896 the number so to be furnished was limited to fifty. At the November election some difficulty was experienced in a few cases where the system was employed, owing to ignorance or to imperfection in the machines; but in general they gave marked satisfac-

tion, especially in the cities of Rochester and Worcester where they received trial on a larger scale than ever before.

The past year added two more to the steadily growing list of states (now numbering fifteen) that have adopted more or less satisfactory corrupt practices acts. The law passed in Utah is comparatively rudimentary, copying closely the original New York act of 1890, with the bare requirement that candidates and committees report their election expenditures. In Ohio, on the other hand, the new statute assimilates the most desirable features of all the laws heretofore passed in the United States, and advances beyond them. The laws of Missouri and Minnesota are most nearly followed, but the limit of candidates' expenditures is placed at lower figures—not more than $100 where the election is to be by 5000 voters or less, and not more than $650 in any case whatever. Moreover, there is a new provision requiring a statement of their expenditures by all candidates for nomination, to be made before the election. Somewhat as in Massachusetts, minute regulations are laid down concerning the accounts of political committees and of those acting for them or independently disbursing money in the campaign. The act contains, however, no definition of legitimate and illegitimate payments.

State Officers and Legislature. As has been intimated, several important constitutional provisions relating to state officers and the legislature were rejected by popular vote in 1896. Thus in Massachusetts the second attempt within five years to introduce biennial instead of annual elections and biennial legislative sessions was defeated by a majority of nearly two-thirds. In Illinois the effort, vainly made at least once before, to secure to the legislature the right to propose constitutional amendments more numerously and frequently, was again defeated. It is almost impossible for Illinois to amend her constitution at all in face of the requirement that the favoring vote shall equal a majority of all the ballots cast for state officers. Defeat likewise befell

the several amendments in Nebraska allowing the legislature, by two-thirds vote, to establish intermediate courts, to increase the number of supreme and circuit court judges, to establish additional executive officers, and not oftener than once in four years to increase the salaries of such judges and officers. Whatever may be said regarding the wisdom of the restriction of legislative power in these last two instances, there can be no doubt as to the advantage of the new provision in South Carolina's constitution, which, following a precedent much less general in the South than in the North, prohibits special and local legislation. Private acts were formerly very numerous in this state. It is needless to add that Utah has placed a similar provision in her constitution.

Georgia adopted a constitutional amendment in 1896 increasing the number of supreme court judges from four to six, allowing them to sit in two divisions, and providing that they shall be elected by the people instead of being appointed. State civil service reform, which progresses but slowly as compared with other movements, made its only advance last year in Maryland, where a constitutional amendment establishing the examination system was submitted to the people at the election of 1897. The Massachusetts law for the preference of veterans in appointments, despite strong criticism made upon it, was further extended in 1896; department heads may now at their discretion appoint veterans without any examination, and must appoint those who have passed examination regardless of their relative rank. Ohio has likewise enacted that soldiers must be preferred in local civil service.

Local Government generally. In Utah a general system of county and township government was adopted in 1896, following the line of the numerous western states having the commissioner organization. In the territorial days the county court system was in vogue. A curious provision, enacted in Mississippi, requires that all county officers shall

attend the first charge of the county judge to the grand jury, and that the judge shall briefly instruct them on their duties.

New Jersey's system of municipal government has long been in a most confused and corrupt condition. The practice of legislating out of office has nowhere been so common. It is perhaps owing to the exceeding density of the population in the northern counties that the legislature, forbidden by constitution to enact special laws for municipalities, has provided so many general incorporation laws. Most states have, aside from townships, only cities and one other class of municipalities, variously called towns, villages or boroughs. New Jersey has not merely four classes of cities, but also towns, villages, boroughs and borough commissions, while her townships are in many cases given organization and powers quite similar to those of higher grades of municipalities. Morever, several general laws, presenting considerable differences, exist side by side for the government of almost every one of these classes. Countless additional acts on special subjects have been passed, and as these have seldom specifically amended or repealed former enactments, a great mass of undigested and inconsistent legislation has accumulated, under which municipalities often stand on a very precarious legal footing. A marked change in all this will be effected by a law of 1896 which requires a special act of the legislature to authorize the incorporation of each municipality, although they are to be governed by general laws. While a more desirable reform would be a revision of those general laws themselves, till such a change is made the new practice will probably prevent some abuses. A start in the more needed movement was made last year by the repeal of all the acts for the government of boroughs and borough commissions, except that of 1878, under which all are required to reincorporate.

In Minnesota the very important constitutional amendment relating to city charters received popular approval at

the last election. This measure provides, it will be remembered, that when it is desired to organize a village into a city or to reorganize a city, the district court shall appoint a board of fifteen freeholders, residents of the municipality for at least five years, to draft a charter. This, if the people favor it by a four-sevenths majority, becomes law. The charter board is to be a permanent body; amendments proposed by it from time to time require three-fifths of the popular vote for ratification. The legislature is authorized to pass general laws paramount to local charters, but these may be of only three classes, applying to cities of more than 50,000, 15,000 to 50,000, and less than 15,000 respectively. The amendment further provides that the city council may consist of one or two bodies, but that if there be two the members of one must be elected by the entire city. This "California" system of home-rule for municipalities has found somewhat unexpected favor in Louisiana, where an act of 1896 prescribes that whenever a majority of the property owners in any city or town shall frame and petition for the adoption of a new charter, an election must be held, at which a majority vote will suffice to put it into force.

The South Carolina Legislature last year made a beginning in the general municipal legislation demanded by the new constitution, adopting acts, not in themselves of special consequence, for the government of villages of two classes. The New York Legislature failed to take action on the bills for general laws regulating second and third class cities, submitted by special commissions established for the purpose.

Two acts of 1896, though local in nature, deserve attention—the Greater New York law and the New Orleans charter. The former measure declared New York, Brooklyn and other smaller municipalities in Kings and Richmond counties to be consolidated, the act to take effect January 1, 1898. Meantime a commission of fifteen members was to prepare a charter for presentation to the legislature of 1897. This Greater New York bill, after its first passage, was

submitted to the mayors of New York and Brooklyn who, after prolonged hearings, both disapproved it. They maintained that, while doubtless a majority, though scarcely a large one, of the citizens of the proposed metropolis desired consolidation, the people were not generally in favor of uniting first and deciding on a frame of government afterward, especially if such a body as sits in Albany should have an indefinite part in that decision. After an exciting struggle in which the party whip was applied vigorously the legislature repassed the bill in spite of this double veto. It is almost impossible to foretell the nature of the charter that will ultimately be adopted, nor is it even certain that any act will be passed at the session now being held.

The new charter of New Orleans, while not entirely readjusting the relations of powers, tends to increase the authority of the mayor. Two important department heads formerly elected by the people are to be appointed by him, with consent of the city council. Certain other officers, formerly chosen by the council, are to be named by the mayor, subject to confirmation. The council no longer has the power of summary removal. The most notable feature of the act is that it embodies, almost word for word, the stringent provisions of the Illinois municipal civil service law, adopted by Chicago in 1895.* Another article requires that all ordinances granting franchises shall, after passing the council, be submitted to a board consisting of five chief executive officers, the concurrence of four of whom is necessary to approve the measure. Street railway, lighting and other important franchises must furthermore be offered at auction to the highest bidder. The forward civic movement in New Orleans is also signalized by the establishment of a commission to undertake the immensely difficult task of draining the city. The issue of $5,000,000 of bonds is authorized.

* See ANNALS, Vol. vii, p. 422, May, 1896.

Special Municipal Legislation. The system of assessments to cover the cost of local improvements, so universally popular in the North, has been somewhat slower in winning its way in the southern states. In Virginia some of the many special municipal charters formerly authorized local assessments, but a law of 1896 first allows all cities and towns to make use of this method. South Carolina last year joined the numerous states which authorize municipalities to erect lighting and water plants. In South Dakota a constitutional amendment was adopted extending the debt limit of all local authorities for the purpose of supplying water for irrigation or domestic use. A rather strict limitation upon the granting of street railway franchises is that established by Louisiana, where a popular vote is requisite in cities and towns of less than 10,000 population. Ohio has partially followed the example set by Missouri in 1895, enacting that upon the consolidation of street railways the city or village may limit the fare over the entire line to five cents, with special rates for school children, may require a system of transfers, and may, moreover, every fifteen years, readjust the rates of fare and the percentages to be paid for the privilege. Amendments of interest were made in New York to the act of 1891 providing for an underground railway in the metropolis. The matter is dragging along very slowly, owing largely to the fear that should the city itself undertake to construct the system its debt would be carried beyond the constitutional limit. The too long delayed movement to restrict the height of buildings in cities is making some slight progress. Massachusetts, which already, in 1892, fixed 125 feet as the maximum for buildings in Boston, has now provided that along parks and boulevards in any city or town the height may not exceed 70 feet, and may be further limited by municipal ordinance. Considerable agitation on the subject is being made in New York.

General Legislation. Without going into such detail as we have done with legislation directly affecting municipal

and political affairs, it may be of interest to refer briefly to a few other noteworthy acts of 1896.

Of special importance is the Torrens land registration law of Ohio. This is not, as was the Illinois act of 1895, a local option measure, but every county is required to furnish the necessary books so that whoever wishes may have his land entered. The Illinois statute has meantime been declared unconstitutional by the supreme court. The general principle is not impeached, but certain provisions, notably that giving powers of a judicial nature to the county recorder, are criticised. This last difficulty was avoided by the Ohio Legislature, which turned over to the courts the primary determination as to the validity of the land titles. Utah and Maryland have established commissions to investigate this subject; Massachusetts continues to postpone action on the report of her commissioners. Two states, Ohio and South Carolina, have taken what, on their face, promise to be the first really effective measures to prevent lynching. These acts provide that officers in any way conniving shall be summarily removed and disqualified for any public position. They grant to the person injured by a mob, or to his heirs, a right of action for damages against the county, whether the officers are culpable or not, and the county may recover such damages from persons participating in the affair. Georgia has adopted a less satisfactory law designed to check this evil.

In connection with the repeal in South Dakota of the article of the constitution prohibiting the sale of liquor, may be noted the fact that the Iowa Legislature of 1896 refused to approve the prohibition amendment proposed by its predecessor in 1894, or to modify the present anomalous system. The new Raines liquor law in New York transfers the power to grant licenses from the local authorities to a state department, increases the rates, and provides that a considerable proportion of the revenue from this source (amounting to about $4,000,000 for the first year)

shall go to the state. The act also authorizes township local option.

Utah and South Carolina have reorganized their public school systems, while the department of education in New York City has been remodeled with decided improvements. New York extends further the provision allowing the instruction of pupils at the expense of their home districts in the schools of other districts having better facilities, and following the lead of Massachusetts allows the cost of their conveyance to and fro to be a public charge. Iowa and New York have authorized any school district to establish free kindergartens, a measure previously adopted in three or four states. Kentucky has enacted her first compulsory education law.

Among the many improvements in the corporation laws of New Jersey are the new requirements that at least one director shall reside in the state and that the chief office must be located there. It will no longer be so easy to make New Jersey the legal home of countless more or less reputable corporations that never transact a stroke of business in the state. South Carolina and Utah have also revised their corporation laws. In California the attempt to amend the constitution so as to limit the liability of stockholders to the face value of their stock was defeated by the people.

The new tax law of Maryland introduces the system of listing personal property. Mortgages are to be specially taxed by the state at eight per cent on the amount of their interest, with special safeguards to prevent shifting to the mortgagor. An apparently rather impractical provision of this act, that bonds and stocks should be assessed to the general property tax in precise proportion to their nominal rate of interest, was amended by another law, approved on the same day as the first, so as to make such securities assessable at their actual value in the market. Virginia and Iowa join the dozen or more states having the collateral inheritance tax; in each case five per cent is imposed, but

in Iowa estates of less than $1000 are exempt. Ohio, which has been very conservative in adopting new forms of taxation, has levied a tax of one-half of one per cent on the gross earnings of light, water, pipe-line and railway companies. In Minnesota a constitutional amendment was adopted authorizing special modes of taxing various corporations; the tax may be progressive.

In New York the contract system of prison labor was prohibited. Prisoners are to manufacture articles exclusively for use in other state institutions. Ohio also established a commission to further the distribution of prison-made products to other institutions. Kentucky which, like other southern states, has been backward in the treatment of criminals, establishes reform schools for boys and for girls. South Carolina's new constitution contained several sections relating to railways, and acts putting these into effect were passed by the legislature. Perhaps the most important limits first-class passenger fares to 3¼ cents and second-class fares to 2¾ cents.

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